



U.S. Department of Justice

*United States Attorney
Southern District of New York*

*The Silvio J. Mollo Building
One Saint Andrew's Plaza
New York, New York 10007*

January 9, 2019

Via ECF

The Honorable Vernon S. Broderick
United States District Judge
Southern District of New York
United State Courthouse
40 Foley Square, Courtroom 518
New York, New York 10007

Re: *United States v. Sayfullo Habibullaevic Saipov*, S1 17 Cr. 722 (VSB)

Dear Judge Broderick:

The Government writes in response to the Court's order to confer regarding a motions schedule for defense motions, if any, related to the discovery produced by the Government on November 20, 2018, and to request that the Court set a schedule for the remaining pretrial deadlines in the case, including expert disclosures, the jury selection process, and other pretrial submissions.

The parties jointly propose that any additional defense motion in connection with the November 20 production be made by January 28, 2019; any opposition by February 25, 2019; and any reply by March 11, 2019.

With respect to the calendar for the balance of pretrial filings, we have conferred with defense counsel and their position is that it is premature to set any such deadlines, and that any deadlines set may be impacted by potential funding issues relating to the current partial government shutdown. The Government nonetheless believes that setting a schedule at this time is important and appropriate given the October 7, 2019 trial date. It is standard for this Court to set pretrial filing deadlines well in advance of trial so that the parties and the Court can plan accordingly. This case should be no exception and, indeed, calls for early organization and planning given the nature of the charges and the complexity of a capital case proceeding. Setting a schedule at this time will enable the parties to most efficiently prepare for trial and avoid the possibility of last-minute delay, without prejudice to either party advising the Court of any issues—including relating to funding—that may impact the schedule as those issues arise.

Hon. Vernon S. Broderick

January 8, 2019

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Accordingly, the Government respectfully proposes the following schedule:

Expert Disclosures

- April 8, 2019
 - Government's non-mental health expert initial disclosures pursuant to Fed. R. Crim. P. 16(a)(1)(G) due.
- May 6, 2019
 - Defendant's non-mental health expert initial disclosures pursuant to Fed. R. Crim. P. 16(b)(1)(C) due.
 - Defendant's notice of intent to introduce expert evidence on a mental condition pursuant to Fed. R. Crim. P. 12.2 due.
 - Defendant's notice should include the name and professional qualifications of any mental health professional who will testify as an expert and a brief, general summary of the topics to be addressed that is sufficient to permit the Government to determine the area in which its expert must be versed. The notice should include experts who are basing their opinions on a review of records, as well as experts who are basing their opinions on a personal examination of the defendant.
 - If the defendant provides such notice, the defendant should be examined by a corresponding mental health professional or professionals selected by the Government for purposes of rebuttal.

Motions in Limine and Jury Instructions

- June 3, 2019
 - Motions *in limine* due.
- July 1, 2019
 - Responses to motions *in limine* due.
- July 15, 2019
 - Replies to motions *in limine* due.
- Week of July 29, 2019
 - Argument, if necessary, on motions *in limine*.
- August 12, 2019
 - Parties to file proposed jury instructions for both guilt and penalty phases.

Jury Selection

- July 22, 2019
 - Parties to submit jointly proposed questions for jury questionnaire.
 - Parties to submit stipulated and non-stipulated questions for questionnaire, with written objections to non-stipulated questions.
 - Parties to submit jointly proposed *voir dire* procedures.
- Week of September 9, 2019
 - Potential jurors to come to courthouse to fill out questionnaire.
- September 23, 2019
 - Parties to file lists of stipulated and non-stipulated strikes for cause.

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CC: Defense Counsel (Via ECF)